HONOURABLE SRI JUSTICE K.C. BHANU

W.P.No.8057 of 2004

Dated 20th August, 2005

Between:

P.Anand alias Anandam,

S/o.Sailu, aged about 30 years

Occ: X Employee, R/o.H.No.6-5-77,

Machilibazaar, Hanamkonda, Warangal,

Warangal District. ..Petitioner

And

The District Malaria Officer,

A.K.Ghanpur, Eturunagaram,

Warangal District and another .. Respondents

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W.P.No.8057 of 2004

ORAL ORDER:

This writ petition is filed challenging the Award dated 14.11.2003 in I.D.No.133 of 2001 passed by the Industrial Tribunal-cum-Labour Court, Warangal and to quash and set aside the same.

The facts relevant for appreciating the controversy may be

delineated as follows:

The claim of the petitioner is that he was appointed as Field Worker on 1.7.1989 on oral instructions on daily-wage basis, but his services were orally terminated on 1.9.1994 in violation of Section 25-F of the Industrial Disputes Act, 1947. Thereupon, the petitioner raised an industrial dispute in I.D.No.133 of 2001 before the Industrial Tribunal-cum-Labour Court, Warangal. To support his contention W1 was examined on behalf of the workman and Exs.W1 to W19 were marked. On behalf of the respondent, MW1 was examined and Exs.M1 to M8 were marked. The Tribunal came to the conclusion that the petitioner did not work for more than 240 days prior to the termination, and accordingly dismissed the claim of the petitioner.

The learned counsel for the writ petitioner has contended that since the petitioner's appointment was made on oral instructions, no documentary evidence would be available and the documents Exs.W1 to W19 would indicate that he worked for more than 240 days and hence, he prays to allow the writ petition.

None appeared for the respondents.

It is a case of oral appointment and also oral termination of services of the petitioner. When the petitioner claims that he is the employee of the respondent-Corporation, it is for him to establish that he worked for more than 240 days in a year prior to his termination from service so as to attract and follow the procedure contemplated under Section 25-F of the Industrial Disputes Act, 1947. Except the oral evidence of the petitioner herein before the Tribunal, there is no other evidence to show that he worked for more than 240 days. The management also specifically took a plea that they never appointed the petitioner on 1.7.1989 as contended by him, but only admitted that the petitioner worked for a few days and the wages were paid to him. However, the learned counsel for the petitioner has placed strong reliance on Exs.W1 to W19 wherein, the muster rolls and acquittance rolls would clearly show that the petitioner worked for more than 240 days in a preceding calendar year, but admittedly they are xerox copies.

Though they are marked as exhibits, no reliance can be placed on the xerox copies unless there is a proper explanation as required under the Indian Evidence Act. No such explanation was offered by the petitioner. Some of the documents are not related to the work of the petitioner. So, in the absence of any such evidence, the findings of the Tribunal cannot be said to be perverse, and the findings are based upon proper appreciation of evidence on record. Therefore, the order under challenge needs no interference of this Court.

The writ petition is devoid of merits and accordingly dismissed. In the circumstances of the case, there shall be no order as to costs.

20.08.2005

bcj